IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 11TH DECEMBER 2007 / 20TH AGRAHAYANA 1929

Bail Appl..No. 7261 of 2007()

CRIME NO.690/07OF CHALAKUDY POLICE STATION .

PETITIONER

P.N.SHIBU, 39 YEARS,
S/O NARAYANAN, POZHAMANGALATH VEEDU,
THEVARA P.O., KANAYANNUR TALUK.

BY ADV. SRI.M.K.SUCHEENDRAN

RESPONDENTS:

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1. THE SECRETARY,
THE CHALAKUDY TOWN CO-OPERATIVE BANK LTD.,
TOWN BANK TOWER, MAIN ROAD, CHALAKUDY P.O.,
THRISSUR DISTRICT.

2. THE CIRCLE INSPECTOR OF POLICE,
CHALAKUDY POLICE STATION.

3. STATE OF KERALA, REPRESENTED BY
DIRECTOR GENERAL OF PROSECUTION,
HIGH COURT OF KERALA, ERNAKULAM.

BY P.P. SRI. JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 11/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 7261 OF 2007

Dated this the 11th day of December, 2007

ORDER

Application for anticipatory bail. The petitioner, who has now been arrayed as accused, faces allegations in a crime registered for offences punishable, inter alia, under Secs.420, 468 and 471 read with Sec.34 of the IPC. The crux of the allegations against the petitioner is that he has been running the culpable activity of procuring forged salary certificates to enable some of the co-accused who are employees of the B.S.N.L. to offer themselves as sureties for various persons on commercial terms. The petitioner was not initially arrayed as an accused when he came before this Court with this application for anticipatory bail.

2. The learned Public Prosecutor submitted that the petitioner has not been arrayed as an accused and that the

available indications clearly point to his possible culpability. The learned Public Prosecutor wanted an opportunity to question the petitioner before taking a decision as to whether the petitioner is to be arrayed as an accused or not.

3. Interim directions dated 28/11/07 were issued. The petitioner made himself available for interrogation. Thereafter, it is submitted that the petitioner has been formally arrayed as 8th accused in the crime. Examination of the petitioner, when he appeared before the Investigating Officer in obedience to the directions of this Court, has led the Investigating Officer to conclude that the petitioner has a culpable and contumacious role.

4. The case of the prosecution is that to siphon out funds from the finance institutions, the services of the employees of the B.S.N.L. were secured. They could not procure salary certificates from their employer. The forged salary certificates are produced before the finance agencies. The petitioner is the kingpin who arranged such forged salary certificates. Such certificates have been produced before various finance institutions including co-operative societies. The petitioner takes out a commission for procuring such false forged certificates. This, in short, is the allegation against the

petitioner. Altogether, there are 8 accused persons arrayed. They are the loanees or the B.S.N.L. employees who had offered themselves as sureties with the help of such forged salary certificates.

5. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. He has nothing to do with the questionable transaction of forgery of salary certificates. Accused No.2 is a neighbour of his. Unnecessarily the petitioner has been dragged into the controversy. He may be granted anticipatory bail.

6. The learned Public Prosecutor opposes the application. The learned Public Prosecutor points out that earlier the 1st accused had come before this Court with an application for anticipatory bail and that application was dismissed as per the order dated 22/11/2007 in B.A.No.7172/07. The learned Public Prosecutor has placed the Case Diary before me for my perusal. The learned Public Prosecutor submits that the materials collected so far satisfactorily point to the complicity of the petitioner. The petitioner has to be arrested. His custodial interrogation is absolutely essential. It has to be ascertained whether he is indulging in this culpable activity of manufacturing the forged salary certificates on behalf of the employees of the

B.S.N.L. Grant of anticipatory bail would virtually deprive the Investigator of an opportunity to exhaustively interrogate the petitioner. That would hamper the interests of a smooth and proper investigation. There are no circumstances justifying the invocation of the extraordinary equitable discretion under Sec.438 of the Cr.P.C. The petitioner may be directed to surrender before the Investigating Officer or the learned Magistrate and then seek regular bail in the ordinary course, submits the learned Public Prosecutor.

7. The Case Diary has been placed before me for my perusal. I have perused the same. Having considered all the relevant inputs, I do find merit in the opposition by the learned Public Prosecutor. I am unable to perceive any features in this case which would justify or warrant the invocation of the extraordinary equitable discretion under Sec.438 of the Cr.P.C. I agree with the learned Public Prosecutor that this is a fit case where the petitioner must resort to the ordinary and normal course of appearing before the Investigating Officer or the learned Magistrate having jurisdiction and then seek regular bail in the usual course.

8. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the

Investigating Officer or the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

Sd/-
(R. BASANT, JUDGE)

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P.S. to Judge